

Remarks

This preliminary amendment is being filed to address issues raised by the Examiner in the Office Action dated June 3, 2004.

Independent claims 1 and 6 have been amended to distinguish the claimed invention from Fitzpatrick. In particular, claim 1 as amended claims linearly movable pulleys that can be adjusted to a desired position by the user independently of one another. In the disclosed embodiment, the linearly movable pulleys slide along vertically disposed columns. In Fitzpatrick, the adjustable pulleys are mounted on arms that rotate about an axis. Because the adjustable pulleys in Fitzpatrick do not move linearly, Fitzpatrick does not anticipate claim 1 as amended.

Further, it would not be obvious to make the pulleys in Fitzpatrick linearly movable. It should be noted that the support arms on which the adjustable pulleys are mounted cannot move linearly due to the cable arrangement. Fitzpatrick uses a single cable connecting both of the pull handles which effectively prohibits linear adjustment. In order to move the support arms linearly to change the height, the length of the connecting cable would have to vary. That is the reason that the Fitzpatrick device is limited to rotational movement of the adjustable pulleys. The support arms in Fitzpatrick can rotate about an axis without having to change the length of the connecting cable. In short, Fitzpatrick does not teach or suggest how to make linearly movable pulleys. Accordingly, claim 1 would not be obvious in view of Fitzpatrick.

Claim 6 has been amended to state that the first and second adjustable force applying members are slidably mounted on first and second columns, respectively, so as to be vertically adjustable. The support arms in Fitzpatrick are not slidably mounted as recited in claim 6. Accordingly, Fitzpatrick does not anticipate claim 6.

Regarding the rejection of claim 12 in view of Weber, Applicant notes that Weber does not disclose a brace that performs the dual functions recited in the claim. In particular, the claim states that the brace functions as a stop in a first position and as a foot rest in a second position. The roller pad 58 in Weber does not function as a foot rest in any position. Accordingly, Weber cannot anticipate claim 12.

Regarding the objection to the drawings, proposed corrections to Figures 1 and 2 are submitted herewith for the Examiner's approval. In the amended figures, reference number 30 indicates the support feet and reference 56 indicates apertures on the carriage guides 54. Amendments have also been made to the specification to correct the duplicate reference numbers. Once the amendments to the drawings are approved, formal drawings will be submitted.

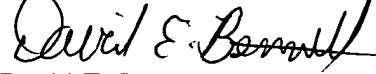
Regarding the rejection of claim 1 in view of O'Hearn, Applicant submits herewith the declaration of Ron Batca. The declaration states facts and includes documents supporting a claimed invention date prior to February 9, 2001. A photograph of the prototype machine, along with an invoice for the sale of the prototype machine, is provided which prove that a prototype machine did, in fact, exist. Further, Applicant has provided a drawing of a component for a commercial embodiment of the claimed invention that is dated before the filing date of the O'Hearn. Ron Batca states in his affidavit that the drawing was made after the prototype machine had been built and tested. Therefore, the dated drawing and the testimony of Ron Batca show a reduction to practice of the invention prior to the filing date of the O'Hearn reference. At the very least, the drawing indicates conception of the invention prior to the filing date of the O'Hearn reference and the facts stated in the affidavit show diligence from the date of the drawing to the filing of the patent application in June 2001. In either case, the affidavit of Ron Batca and the supporting exhibits remove O'Hearn as a reference.

For the foregoing reasons, it is respectfully urged that the present application is in condition for allowance and notice to such effect is respectfully requested.

Respectfully submitted,

By:

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A handwritten signature in cursive script, appearing to read "David E. Bennett", written over the printed name.

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